

Stephen A. Roberts (SBN 17019200)
Robert P. Franke (SBN 07371200)
Robert Tyler (SBN 24009347)
Duane J. Brescia (SBN 24025265)
STRASBURGER & PRICE, LLP
600 Congress, Suite 1600
Austin, Texas 78701
Tel. (512) 499-3600/Fax (512) 499-3660
stephen.roberts@strasburger.com
bob.franke@strasburger.com
robert.tyler@strasburger.com
duane.brescia@strasburger.com

ATTORNEYS FOR DEBTOR SUPERIOR AIR PARTS, INC.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	
	§	Case No. 08-36705
	§	
SUPERIOR AIR PARTS, INC.,	§	Chapter 11
	§	
Debtor.	§	
	§	

**DEBTOR'S OBJECTION TO AVIATION PARTS SUPPLY, INC.'S
EMERGENCY MOTION FOR INTERPRETATION AND ENFORCEMENT, AS
APPROPRIATE, OF THIS COURT'S ORDER APPROVING BID PROCEDURES
ENTERED JULY 23, 2009 AND MOTION TO SHOW CAUSE
[Docket No. 360]**

TO: THE HONORABLE BARBARA J. HOUSER,
UNITED STATES BANKRUPTCY JUDGE:

Superior Air Parts, Inc. ("Superior" or "Debtor") files this Objection to Aviation Parts Supply, Inc.'s Emergency Motion for Interpretation and Enforcement, As Appropriate, Of This Court's Order Approving Bid Procedures Entered July 23, 2009 and Motion to Show Cause [Docket No. 360] and respectfully states as follows:

1. Pursuant to this Court's July 23, 2009 Order Approving Bid Procedures, the Debtor, in consultation with the Official Committee of Unsecured Creditors

DEBTOR'S OBJECTION TO AVIATION PARTS SUPPLY, INC.'S EMERGENCY MOTION FOR INTERPRETATION AND ENFORCEMENT, AS APPROPRIATE, OF THIS COURT'S ORDER APPROVING BID PROCEDURES ENTERED JULY 23, 2009 AND MOTION TO SHOW CAUSE [Docket No. 360]- Page 1 of 7

("Committee") and Thielert AG ("TAG"), conducted the bid selection process. Two bids were received by the Bid Deadline: (1) Weifang Freesky Aviation Technology Company, Ltd., of the Brantly Group ("Brantly") and (2) Aviation Parts Supply, Inc. ("APS"). The bids were evaluated and considered pursuant to the Bid Procedures and the Bid Assessment Criteria described therein.

2. On August 13, 2009, the Debtor notified the bidders of the results of the bid selection process via letter. The results were as follows: (1) the bid of Brantly was accepted as the high offer and (2) the bid of APS was not accepted.

3. In response, APS filed its Emergency Motion for Interpretation and Enforcement, As Appropriate, Of this Court's Order Approving Bid Procedures Entered July 23, 2009 and Motion to Show Cause [Docket No. 360] ("Motion to Enforce").

4. The Debtor objects to the relief requested therein and asserts that the bid results were fairly considered and in compliance with the Bid Procedures.

A. Nothing in the Bid Procedures requires the Debtor to accept any offer.

5. APS clings to the of the word "shall" in Section D(2) of the Bid Procedures as requiring acceptance of any bid. However, that provision only requires that a potential Back-Up Bidder is entitled to notice. Conversely, Section C(5) of the Bid Procedures states:

*Right to Reject. The Debtor reserves the right to reject, **at any time before the Confirmation Hearing, any Bid or Qualified Bid** that the Debtor determines is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or these Bid Procedures, or (iii) contrary to the best interests of the Debtor, its estate, and the creditors thereof.*

(emphasis added). In addition, Section C(6) states:

Veto. TAG or the Unsecured Creditor's Committee may veto any proposal to buy the Superior Stock if in the exercise of their reasonable discretion they do not believe the deal is materially and financially superior to the Brantly offer reflected in the Plan.

These provisions emphatically state that no bid must be accepted under any circumstances.

6. Apparently, APS believes that its bid should have been accepted as a Back-Up Bid for less than the minimum overbid.¹ Section B(iv), the provision under which APS clearly relies, does not require this result:

*Back Up Bid Less Than Minimum Amount. An otherwise Qualified Bid may be for less than the Minimum Overbid, but such Bid **may only be considered for selection** as a Back-Up Bid, in case the Successful Bid, as defined below, cannot be closed.*

(emphasis added). There is nothing in the Bid Procedures that compels the result APS seeks in its Motion to Enforce.

B. The APS Bid was not a Qualified Bid and could not be accepted.

7. The APS Bid, attached to the Motion to Enforce, was so deficient that the Debtor, in consultation with the Committee and TAG, deemed it to be a non-Qualified Bid. APS has very capable bankruptcy counsel who knows how to submit a Qualified Bid. Yet, APS chose to submit a bid that was vague and left too many questions to be considered, as if they expected it to be rejected so as to induce this Motion to Enforce. Specifically, the APS Bid failed to meet the conditions for a Qualified Bid, as set forth in Section A of the Bid Procedures, for the following reasons:

¹ Section A(iii) of the Bid Procedures requires that the aggregate purchase price for the stock of Superior in any bid must exceed (a) \$7.0 million in cash, subject to no greater working capital adjustments than the Brantly offer, (b) plus \$150,000 (the initial overbid amount), (c) plus \$350,000 (the Expense Reimbursement amount).

- (i) It did not contain a markup of the Joint Plan, as required by the Bid Procedures, and thus, too much was left for assumption and speculation, especially given their filed competing plan containing many contrary terms;
- (ii) It would require additional disclosures and re-solicitation, a violation of the Bid Procedures;
- (iii) It materially altered the treatment of creditors without consent, a violation of the Bid Procedures;
- (iv) It was the first time the Proponents received some new numbers from APS that contradicted previous numbers; so, the Proponents did not have sufficient explanation to make them understand what the APS Bid actually meant;
- (v) It did not resolve any issues with TAG, especially the litigation;
- (vi) If it did not resolve the litigation, it was not acceptable to TAG and could not be confirmed until the conclusion of a lengthy trial, in which case the Debtor would have already been forced to liquidate;
- (vii) Accepting this vague bid with numerous questions might have bound the Debtor to an unworkable solution; and
- (viii) It was possible that the Bid was less than liquidation value, in which case it was not confirmable as written and therefore needed a significant amount of changes and further explanation. In light of the Brantly offer, the Proponents did not think it was in the best interests of the estate to commit the time and resources to understand all of the contingencies and a comparison with a liquidation analysis.

C. The APS Bid was not acceptable under the discretion of the Debtor, with the consultation of the Committee and TAG.

8. The APS Bid, even it were to have been considered as a Qualified Bid, was still not acceptable in the reasonable judgment of the Debtor, in consultation with the Committee and TAG. Section D(1) of the Bid Procedures sets forth the Bid Assessment Criteria and the APS Bid was rejected for the following reasons:

- (i) There is no requirement to accept any or all Qualified Bids as a Backup Bid;
- (ii) The APS Bid was a borderline liquidation offer, or less; and APS gave no assurances of its ability to close;

- (iii) TAG has a veto under the procedures and exercised that veto;
- (iv) APS's contentiousness and extreme tactics throughout the process left the Proponents uncertain as to their desire or ability to close;
- (v) There was no deal with TAG, whose consent was required;
- (vi) The Debtor never discussed a plan with APS that did not include an overbid procedure, so any prior APS offer was never acceptable;
- (vii) The APS-sponsored plan never got finalized because APS and TAG could not agree on the Engine Transfer Agreement;
- (viii) The Debtor's Joint Plan (ostensibly adopted by APS in the Bid) did not require an Engine Transfer Agreement and APS has consistently stated that there is no deal without it;
- (ix) See all other problems with APS as a buyer per Debtor's objection to APS's Disclosure Statement;
- (x) Several potential buyers have expressed interest to the Debtor in buying its assets if the Brantly offer does not close; these potential buyers chose not to make a Back Up Bid, but may still offer significantly more than the APS Bid; and
- (xi) Finally, the Proponents did not trust APS to act in good faith if their Bid was accepted. APS's past actions in this case have not been in good faith and they have not yet shown any intention to act in good faith in the future.

WHEREFORE, the Debtor prays that the court deny APS's Motion to Enforce in its entirety and grant such other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Duane J. Brescia

Stephen A. Roberts (SBN 17019200)

Robert P. Franke (SBN 07371200)

Duane J. Brescia (SBN 24025265)

Robert Tyler (SBN 24009347)

STRASBURGER & PRICE, LLP

600 Congress, Suite 1600

Austin, Texas 78701

Tel. (512) 499-3600/Fax (512) 499-3660

stephen.roberts@strasburger.com

bob.franke@strasburger.com

robert.tyler@strasburger.com

duane.brescia@strasburger.com

**Bankruptcy Attorneys for Debtor Superior
Air Parts, Inc.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was served via email upon the parties listed below and via US Mail on the attached service list via First Class U.S. Mail, postage prepaid August 21, 2009.

/s/ Duane J. Brescia

Duane J. Brescia

Via electronic mail:

Matt Okin
Brian Kilmer
Okin Adams & Kilmer, LLP
1113 Vine Street, Suite 201
Houston, TX 77002
mokin@oakllp.com
bkilmer@oakllp.com

Kevin H. Good
Conner & Winters, P.C.
1700 Pacific Avenue, Suite 2250
Dallas, TX 75201
KGood@cwlaw.com

David W. Parham
Partner
David Parham
Elliot Shuler
Baker & McKenzie LLP
2001 Ross Ave., Suite 2300
Dallas, TX 75201
david.w.parham@bakernet.com
elliot.d.schuler@bakernet.com

Mr. Chester B. Salomon
Becker, Glynn, Melamed & Muffly LLP
299 Park Avenue
New York, N.Y. 10171
csalomon@beckerglynn.com

Billy G. Leonard, Jr.
Attorney at Law
1650 W. Virginia Street, Suite 211
McKinney, TX 75069
bleonard@billyleonardlaw.com

Theilert Aircraft Engines
Nieritzstr 14 D-01097
Dresden Germany
Fax: 011-49-89-189-44-6329

Mahle Engine Components
60428 Marine Road
Atlantic IA 50022-8291
Fax: 712-243-1553

KS-Pistoes
Rodovia Arnald, Julio Mauberg
4000 Disrito Industrial No
Nova Odessa SP Brasil CAIZA Postal
91 CEP 13460-000
Fax: 011-55-19-3466-9814

Airsure Limited
Dallas Office
5700 Granite Parkway, #550
Plano, TX 75024-6647
Fax: 214-705-6262

ECK Industries, Inc.
1602 North 8th Street
Manitowoc, WI 54221-0967
Fax: 251-625-2241

Mahle Engine Components
14161 Manchester Road
Manchester, MO 63011
Fax: 636-394-3736

Crane Cams
2531 Tail Spin Trail
Daytona Beach, FL 32128-6743
Fax: 386-761-2361

Corley Gasket Co.
6555 Hunnicut Road
Dallas TX 75227
Fax: 214-388-0619

Saturn Fasteners Inc.
425 S. Varney St.
Burbank, CA 91502
Fax: 818-846-0003

Champion Aerospace, Inc.
1230 Old Norris Road
Liberty, SC 29654-0686
Fax: 864-843-5479

Ohio Gasket & Shim
976 Evans Ave.
Akron, OH 44305
Fax: 330-630-2075

Gerhardt Gear
133 East Santa Anita
Burbank CA 91502-1926
Fax: 818-842-1458

Automatic Screw Machine
709 2nd Avenue SE
Decatur, AL 35601
Fax: 256-353-2197

Helio Precision Products
601 North Skokie Highway
Lake Bluff, IL 60044
Fax: 847-473-1306

Knappe & Koester Inc.
18 Bradco Street
Keen, NH 3431
Fax: 603-355-2266

Chester Salomon
Stevens & Lee
485 Madison Ave., 20th Floor
New York, NY 10022
Fax: 212-319-8505

AOPA Pilot
PO Box 973
Frederick, MD 21701
Thomas.haines@aopa.org
Steve@ellsaviation.com

Mahle Engine Components
17226 Industrial HWY
Caldwell, OH 43724-9779
Fax: 740-732-2520

Genesee Stamping & Fabricating
1470 Avenue T
Grand Prairie, TX 75050-1222
Fax: 972-623-0404

City of Coppell/Coppell ISD
Mary McGuffey, Tax Assessor
PO Box 9478
Coppell, TX 75019
Fax: 972-304-3571

Internal Revenue Service
Special Procedures - Insolvency
P.O. Box 21126
Philadelphia, PA 19114
Fax: 214-413-5028

Deirdre B. Ruckman
Gardere Wynne Sewell LLP
1601 Elm Street, Ste. 3000
Dallas, TX 75201
Fax: 214.999.3963

David Childs, Ph.D.
Dallas County Tax Assessor/Collector
500 Elm Street, Records Building
Dallas, TX 75202
214-653-7887

Thielert AG
Albert-Einstein-Ring 11
D-22761, Hamburg Germany
Fax: 011-49-40-899-5610

Betsy Price, Tax Assessor Collector
100 E. Weatherford
PO Box 961018
Fort Worth, TX 76196
Fax: 817-884-2793

Hartford Aircraft Products
94 Old Poquonock Road
Bloomfield, CT 06002
Fax: 860-242-3159

Ace Grinding & Machine Company
2020 Winner Street
Walled Lake, MI 48390
Fax: 248-624-0512

Lynden International
1800 International Blvd. #800
Seattle, WA 98188
Fax: 206-777-7330

Combustion Technologies, Inc.
1804 Slatesville Road
Chatham, VA 24531
mpercario@combustech.com

Ruhrtaler Gesenkschmiede
F.W. Wengler GMBH & Co. KG, Feld
Witten, Germany 58456
Fax: 011-49-230-27-08-28

Neil J. Orleans
Goins, Underkoller, et al, LLP
1201 Elm Street, Ste. 4800
Dallas, TX 75270
Fax: 214-969-5902

Laurie A. Spindler
Linebarger Goggan et al, LLP
2323 Bryan Street Suite 1600
Dallas, TX 75201
Fax: (469) 221-5002

Michael L. Jones
Henry & Jones, LLP
2902 Carlisle Street, Ste. 150
Dallas, TX 75204
Fax: 214-954-9701

Laura Boyle
TW Telecom, Inc.
10475 Park Meadows, Dr. #400
Littleton, CO 80124
Fax: 303-566-1010

Ronald Weaver
Avstar
1365 Park Lane South
Jupiter, FL 33458
Fax: 561-575-0795

Jim Griffin
Hartford Aircraft Products
94 Old Poquonock Road
Bloomfield, CT 06002
Fax: 860-242-3159

Mary Frances Durham
Office of the United States Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242
Fax: 214-767-8971

William G. Burd/Krystina N. Jiron
Atkinson & Brownell, PA
2 South Biscayne Blvd., Suite 3750
Miami, FL 33131
Fax: 305-376-8841

BILLY G. LEONARD, JR.
1650 W. Virginia Street, Suite 211
Fax (469) 442-0135

Kenneth A. Hill
QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
Fax: (214) 871-2111

Jeffrey N. Thom, Q.C.
Miller Thomson LLP
3000, 700 - 9th Avenue SW
Calgary, AB T2P 3V4
Fax: 403-262-0007

Gordon J. Toering
WARNER NORCROSS & JUDD LLP
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, Michigan 49503
Fax: (616) 222-2185

LARRY K. HERCULES
ATTORNEY AT LAW
1400 Preston Road, Suite 280
Plano, Texas 75093
Fax: 972-964-0120

LARRY K. HERCULES
1400 Preston Road, Suite 280
Plano, Texas 75093
FAX: 972-964-0120

Werner Wilhelm Albus/Valeria de Freitas
Mesquita
KSPG Automotive Brazil LTDA
Rodovia Arnaldo Julio Mauerbert,
n. 4000-Distrito Industrial 01
Nova Odessa- SP Brasil
Caixa Postal 91

Piyush Kakar
Seal Science Inc.
17131 Daimler
Irvine, CA 92614
Fax: 949-353-3141

Linda Boyle
TW Telecom, Inc.
10475 Park Meadows Dr. #400
Littleton, CO 80124
Fax: 303-566-1010

David W. Parham,
Elliot Schuler & A.Swick
Baker & McKenzie LLP
2001 Ross Ave., Suite 2300
Dallas, TX 75201
Fax: (214) 651-4330

Kevin H. Good
Conner & Winters LLP
1700 Pacific Avenue, Suite 2250
Dallas, Texas 75201
Fax (214) 217-8861

Howard A. Borg
Assistant United States Attorney
Burnett Plaza, Suite 1700
801 Cherry Street, Unit 4
Fort Worth, Texas 76102-6882
Fax: 817.978.6351

Anita F. McMahon
1646 Belmont Ave.
Baton Rouge, LA 70808
FAX: None provided

Gregory B. Gill, Jr.
Gill & Gill, S.C.
128 North Durkee St.
Appleton, WI 54911
Fax: 920-739-3027

Vincent Slusher/J. Seth Moore
Beirne Maynard & Parsons, LLP
1700 Pacific Ave., Ste. 4400
Dallas, TX 75201
Attys for Theilert GMBH
Fax: 214-237-4340

Phil Eck
Eck Industries, Inc.
1602 North 8th Street
Manitowoc, WI 54221-0967
Fax: 920-682-9298

Stefano Gazzola
Zanzi, S.p.A.
Corso Vercelli, 159
10015 Ivrea, Italy
Fax: 39 0125 615581

Susan B. Hersh
12770 Coit Rd. Ste. 1100
Dallas, TX 75251
Fax: 972-503-7077

Ava Strout
Texas Dugan Limited Partnership
14241 N. Dallas Parkway, Ste 1000
Dallas, TX 75254
Fax: (972) 361-6800

Rosa R. Orenstein
LOOPER, REED & McGRAW, P.C.
4100 Thanksgiving Tower, 1601 Elm St.
Dallas, TX 75201
Fax: (214) 953-1332